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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/713,861	11/14/2003	Jonathan Minden	94363CIPDIVDIV	1855
26285	7590	09/22/2006	EXAMINER	
KIRKPATRICK & LOCKHART NICHOLSON GRAHAM LLP			COOK, LISA V	
535 SMITHFIELD STREET			ART UNIT	
PITTSBURGH, PA 15222			PAPER NUMBER	
			1641	

DATE MAILED: 09/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121

I. Claims 1-32 are drawn to a method for comparing protein compositions between at least two different samples utilizing mixture separation and image analysis, classified in class 435, subclass 7.1 and class 436, subclass 514 for example.

II. Claims 33-37 are drawn to a method of comparing protein compositions between at least different samples by luminescent data capture (no images required), classified in class 436, subclass 161 for example.

2. The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions are drawn to diverse and distinct methods that have different modes of operation. For example, the method of Group I (claims 1-32) utilizes mixture separation and image analysis while the method of Group II (claims 33-37) employs luminescent data capture (no images required). Accordingly the methods differ in analysis, are therefore patentably distinct, and require a different search for each method invention.

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3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper. Please note that the classifications in the restriction are illustrative only and **do not** represent all the classes and subclasses which must be searched for each invention; nor is the search limited to issued US patents, but rather includes foreign patents and applications as well as literature searches.

Because these inventions are distinct for the reasons given above and the search required for Groups I-II are not totally inclusive, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

ELECTION OF SPECIES

4. This application contains claims directed to the following patentably distinct species of the claimed invention: The invention of Groups I (claims 1-32) includes a plurality of disclosed patentably distinct inventions. Group I contains methods with distinct analysis procedures that are not found in all the methods. Therefore each disclosed patentably distinct component or embodiment is considered a separate invention.

5. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits by selecting a single distinct embodiment from A-C to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1-12 and 33-37 are generic.

III. If Group I is elected for prosecution, one of the following species must also be selected for consideration (A, B, or C).

Group A – claims 1-12 and 13-22 are drawn to a method of comparing protein compositions with 1st and 2nd image employing 1st and 2nd filters (no electrophoresis separation).

Group B – claims 1-12 and 23-24 are drawn to a method of comparing protein compositions with electrophoresis gel separation, gel imaging, and computer analysis (no 1st and 2nd filters).

Group C – claims 1-12 and 25-32 are drawn to a method of comparing protein compositions with computer analysis (no electrophoresis or filters required).

6. Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

7. Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

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8. Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

9. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement is traversed (37 CFR 1.143).

10. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).

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11. Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the PTO fax center located in Crystal Mall 1. The faxing of such papers must conform to the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Group 1641 Fax number is (571) 273-8300, which is able to receive transmissions 24 hours/day, 7 days/week.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lisa V. Cook whose telephone number is (571) 272-0816. The examiner can normally be reached on Monday - Friday from 7:00 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Long Le, can be reached on (571) 272-0823.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group TC 1600 whose telephone number is (571) 272-1600.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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9/11/06
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SUPERVISORY PATENT EXAMINER
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